

10:09AM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

August 7, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF CHRISTOPHER WISNIEWSKI
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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PRESENT:

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MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

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REBECCA FABIAN IZZO, ESQ.

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* * * * *

(Excerpt commenced at 10:09 a.m.)

(Jury is present.)

THE COURT: The government can call its next witness.

MR. COOPER: Thank you, Judge. The government calls
Special Agent Chris Wisniewski from the DEA.

C H R I S T O P H E R W I S N I E W S K I, having been duly
called and sworn, testified as follows:

MR. COOPER: May I inquire, Judge?

THE COURT: You may.

DIRECT-EXAMINATION BY MR. COOPER:

Q. Good morning, sir. Would you introduce yourself to the
jury, please?

A. Good morning, jury. My name is Chris Wisniewski. I'm a
special agent with the DEA here in Buffalo.

Q. And how old are you, Chris?

A. I'm going to be 50 this year.

10:10AM 1 Q. Where did you grow up at?

10:10AM 2 A. Connecticut.

10:10AM 3 Q. And you mentioned that you're a special agent with the
10:10AM 4 DEA here in Buffalo?

10:10AM 5 A. Yes.

10:10AM 6 Q. When did you begin your career with the DEA?

10:10AM 7 A. I was hired in 1998.

10:10AM 8 Q. And before that, what kind of educational background did
10:10AM 9 you have?

10:10AM 10 A. I went to college and law school.

10:10AM 11 Q. And did you apply for a job with the DEA sometime after
10:10AM 12 finishing law school?

10:10AM 13 A. While I was in law school.

10:10AM 14 Q. You applied while you were in law school?

10:10AM 15 A. Yes.

10:10AM 16 Q. That's auspicious. And what year did you begin work at
10:10AM 17 the DEA?

10:10AM 18 A. In 1998.

10:10AM 19 Q. And do you go through some training at the beginning of
10:11AM 20 your career?

10:11AM 21 A. Yes.

10:11AM 22 Q. Can you explain that for the jurors?

10:11AM 23 A. After you get hired from your office of hire, you get
10:11AM 24 sent down to Quantico, Virginia where, at the time, all DEA
10:11AM 25 agents trained at the FBI Academy. Separate classes, but

1 same buildings, same dormitories, same ranges, things of that
2 nature.

3 I want to say that the course is about 16 weeks long, and
4 covered basic law enforcement procedures, tactics, law,
5 things of that nature.

6 Q. After that 16-week academy, do you receive an initial
7 assignment, a location where you have to go work?

8 A. At some point in the academy, they -- yes, they give you
9 a preference sheet, and then you can pick at the time when
10 you went there you can pick three locations off the list.

11 Q. And where did you go first after Quantico?

12 A. To Buffalo.

13 Q. When you arrived at Buffalo, what was your title there?

14 A. Special agent.

15 Q. Okay. And what kinds of crimes, generally, just give
16 them an idea, what kind of crimes did you investigate?

17 A. Drug crimes, financial crimes.

18 Q. I want to speak with you now about the timeframe of 2008,
19 okay?

20 A. Okay.

21 Q. In 2008, were you working as a special agent at the DEA?

22 A. Yes.

23 Q. Okay. And at that point, would it be fair to say that
24 you've been a special agent for about ten years?

25 A. Yes.

1 Q. Do you have some experience at that point?

2 A. Yes.

3 Q. Have you handled a number of different types of cases?

4 A. Yes.

5 Q. Where was the DEA office base physically located in 2008?

6 A. I believe it was in the Electric Tower at that point.

7 Q. At some point around that timeframe, did the DEA move to
8 the Electric Tower?

9 A. Yes, we started in the Guaranty Building, and then at
10 some point during my career we moved over there to the
11 Electric Tower.

12 Q. Can you describe for the jury generally what the office
13 space inside the Electric Tower looked like at the DEA?

14 A. We had one whole floor, one entire floor, probably a half
15 of another floor. Most of the work spaces were just what we
16 called open bays. They were rows, long rows of low cubicles
17 where the agents and task force officers faced each other and
18 sat side by side in a long line. Pardon me.

19 And then the supervisor's office was located at one of
20 the ends.

21 Q. You mentioned that there were those kind of low cubicles
22 and a low bay, as you described it, would it be fair to say
23 that it was easy to overhear conversations that were going on
24 from other agents and other task force officers?

25 A. Yes.

1 Q. Did the space appear, in your estimation, to be designed
2 to facilitate open communication?

3 A. Yes.

4 Q. Is open communication between special agents and task
5 force officers an important part of work as a special agent?

6 A. Yes.

7 Q. Why? Can you tell them?

8 A. The way that we investigate drug cases, you basically
9 can't do it alone. You, for almost any kind of operation you
10 go on, you have to take team members with you. Even when
11 you're doing something simple like conducting interviews, you
12 have another person with you. Surveillance operations where
13 we would go and watch people, we would take, you know,
14 multiple vehicles and people.

15 So, sharing information is pretty vital in that line of
16 work.

17 Q. Now, you mentioned that sometimes, if you're going to do
18 an interview you'd bring a partner with you. Did DEA have or
19 did DEA special agents frequently work with a partner?

20 A. Yes. Yes.

21 Q. And was that kind of a formalized partnership, selected
22 by management? Or informal, selected by the people who are
23 working together?

24 A. It was mostly informal.

25 Q. Do you know a person by the name of Joseph Bongiovanni?

10:15AM 1 A. I do.

10:15AM 2 Q. How do you know that person?

10:15AM 3 A. We worked together.

10:15AM 4 Q. Did you work together -- approximately how long would you

10:15AM 5 say you worked with that individual?

10:15AM 6 A. We met at the academy, so over 25 years.

10:15AM 7 Q. As you sit here today, do you have any strong personal

10:15AM 8 feelings about him?

10:15AM 9 A. Not one way or the other. I like the guy.

10:15AM 10 Q. Do you have any animosity towards him?

10:15AM 11 A. No.

10:15AM 12 Q. Are you excited about being here today?

10:15AM 13 A. No.

10:15AM 14 Q. Was he ever your partner?

10:15AM 15 A. No.

10:15AM 16 Q. Is he in court today?

10:15AM 17 A. Yes.

10:15AM 18 Q. Would you point him out and identify an article of

10:15AM 19 clothing for the record?

10:15AM 20 A. He's the gentleman in the red and blue tie, sitting in

10:15AM 21 the middle.

10:15AM 22 **MR. COOPER:** For the record, Judge, indicating the

10:15AM 23 defendant.

10:15AM 24 **THE COURT:** It does.

10:15AM 25 **MR. COOPER:** Thank you.

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Q. Despite the fact that you never partnered up with the defendant, were there times when you would engage in investigative activity together?

A. Yes.

Q. Was he a frequent person you would seek out to work with?

A. We were on the same groups together, yes, we worked together almost on a daily basis.

Q. So my question is: Is he someone you would seek out to go out and do something with?

A. No, I usually go with my partner.

Q. Okay. Have you heard the term DEA-6?

A. Yes.

Q. Okay. I'm sure you've heard it quite a bit, right?

A. Yes.

Q. Can you tell the jury what a DEA-6 is?

A. It's a standard narrative report form where we write about investigative steps that we took.

Q. Is that something all DEA special agents learn to do pretty early on?

A. Right from the academy.

Q. Okay. And is it important that when you generate a DEA-6 and you write information in it, that that information be accurate?

A. Yes.

10:16AM 1 Q. Is it important that, to the best of your ability, the
10:17AM 2 information that you report be truthful?

10:17AM 3 A. Yes.

10:17AM 4 Q. Why is that important?

10:17AM 5 A. Because all these reports are later used in prosecution.
10:17AM 6 They can be used to launch other cases. They're used to
10:17AM 7 facilitate forfeiture actions. And we rely on those reports
10:17AM 8 to refresh our recollection when we come to court.

10:17AM 9 Q. When you work at the DEA investigating drug-trafficking
10:17AM 10 offenses, would it be fair to say that a lot of the cases you
10:17AM 11 investigate involve more than one target or suspect?

10:17AM 12 A. Yes.

10:17AM 13 Q. Are you often targeting organizations?

10:17AM 14 A. Yes.

10:17AM 15 Q. Have you heard of something called an organizational
10:17AM 16 chart?

10:17AM 17 A. Yes.

10:17AM 18 Q. Can you describe for the jury what an organizational
10:17AM 19 chart is?

10:17AM 20 A. An organization -- sorry, an organizational chart is
10:17AM 21 basically -- most times it's like a box, a circle, or line
10:18AM 22 diagram where you list names, phone numbers, addresses, and
10:18AM 23 you sort of arrange them in a way that makes sense as a
10:18AM 24 picture for investigators to sort of look at it and
10:18AM 25 understand what you're dealing with as far as your case goes

10:18AM 1 at that time.

10:18AM 2 Q. You said a -- a box and line diagram, or a circle and
10:18AM 3 line diagram; is that correct?

10:18AM 4 A. Yes. Yes.

10:18AM 5 Q. And generally, just speaking in generalities, would it
10:18AM 6 have names of different individuals involved in an
10:18AM 7 organization?

10:18AM 8 A. It could.

10:18AM 9 Q. And would the lines indicate connections between those
10:18AM 10 individuals?

10:18AM 11 A. Yes.

10:18AM 12 Q. And, generally, is there -- at least there's intended to
10:18AM 13 be some rhyme or reason in terms of how the organizational
10:18AM 14 chart is organized, right?

10:18AM 15 A. Yes.

10:18AM 16 Q. Trying to kind of create an image out of an organization
10:18AM 17 that exists in real life, right?

10:18AM 18 A. Yes.

10:18AM 19 Q. Is an organizational chart related to an organization
10:19AM 20 that the DEA is actively investigating a document that needs
10:19AM 21 to be handled delicately?

10:19AM 22 A. Usually, yes, sir.

10:19AM 23 Q. Is it something that you'd go home and post on your
10:19AM 24 Facebook account?

10:19AM 25 A. No.

10:19AM 1 Q. Would you show it to a friend at a bar who wasn't
10:19AM 2 involved in law enforcement?

10:19AM 3 A. No.

10:19AM 4 Q. Would it be fair to say that if an organizational chart
10:19AM 5 ended up in the hands of a wrong person, it could derail an
10:19AM 6 investigation?

10:19AM 7 A. Potentially.

10:19AM 8 Q. During the course of your career, did you participate in
10:19AM 9 an investigation involving an individual named David Gambino?

10:19AM 10 A. Yes.

10:19AM 11 Q. What was your role at the DEA in that investigation?

10:19AM 12 A. When the case started, I was one of the case agents.

10:19AM 13 Q. Now you said when the case started. Can you estimate for
10:19AM 14 the jury when that case started from your point of view?

10:20AM 15 A. I don't recall specifically. It was a very long time
10:20AM 16 ago. But I want to say that it was an '06 file number, so
10:20AM 17 the case would have formally been opened in 2006.

10:20AM 18 Q. And those file numbers operate off of the fiscal year,
10:20AM 19 right?

10:20AM 20 A. Yes.

10:20AM 21 Q. So, and you indicated this, but you're estimating
10:20AM 22 somewhere around 2006; is that correct?

10:20AM 23 A. Yes.

10:20AM 24 Q. Was DEA the only law enforcement agency that was involved
10:20AM 25 in that investigation?

1 A. No.

2 Q. Can you tell the jury what other law enforcement agencies
3 were involved?

4 A. It was designated as a higher level investigation. So,
5 the main partner agencies were ICE -- or Homeland Security
6 Investigations, as it's known now -- the IRS, ATF was pretty
7 heavily involved at the beginning, of course the DEA. We
8 also partnered with the FBI, Buffalo police, sheriff's
9 department, Amherst police, Town of Tonawanda.

10 Basically, wherever the organization operated, we sought
11 assistance and information from the local and state
12 authorities there.

13 Q. And one of the agencies that you mentioned was HSI or
14 ICE; is that correct?

15 A. Yes.

16 Q. And that's Homeland Security Investigations?

17 A. Yes.

18 Q. Was there a point person or a lead agent from HSI
19 involved in the Gambino investigation when you were involved
20 in it?

21 A. Yes.

22 Q. Who was that person?

23 A. Initially it was Joseph Dubreville, but he was replaced
24 by TJ Webb.

25 Q. Are those both special agents with Homeland Security?

10:21AM

1 A. Yes.

10:21AM

2 Q. Can you give a brief summary, like just a 30,000-foot

10:21AM

3 view for the jury, what that investigation entailed, what was

10:21AM

4 it about?

10:21AM

5 A. It was an interstate cocaine and marijuana case.

10:22AM

6 Q. Was there a general geographic location in Western

10:22AM

7 New York where targets of that investigation either lived or

10:22AM

8 hung out?

10:22AM

9 A. A lot of the targets were from, like, the North Buffalo

10:22AM

10 area. They lived and hung out in that area near the

10:22AM

11 Tonawanda/Amherst lines.

10:22AM

12 Q. Was there a suspected nexus to Italian Organized Crime

10:22AM

13 involved in that investigation?

10:22AM

14 A. Yes.

10:22AM

15 Q. I want to -- so sometime around 2006, you indicated you

10:22AM

16 became involved in the Gambino investigation, right?

10:22AM

17 A. Yes.

10:22AM

18 Q. And you've described it was kind of a large

10:22AM

19 investigation, right?

10:22AM

20 A. Yes.

10:22AM

21 Q. Did it go on for a number of years?

10:22AM

22 A. Yes.

10:22AM

23 Q. I want to fast forward now to 2008.

10:22AM

24 In 2008, do you remember getting contacted by somebody

10:22AM

25 regarding an organizational chart in the Gambino

10:22AM 1 investigation?

10:22AM 2 A. Yes.

10:22AM 3 Q. Who contacted you?

10:22AM 4 A. Special Agent Webb.

10:22AM 5 Q. Is that TJ Webb from HSI that we just spoke about?

10:23AM 6 A. Yes.

10:23AM 7 Q. Before Special Agent Webb contacted you about that

10:23AM 8 organizational chart, had anyone else ever contacted you

10:23AM 9 about the organizational chart?

10:23AM 10 A. Not that I recall.

10:23AM 11 Q. Was Special Agent Webb, based on your -- was that a phone

10:23AM 12 call or an in-person discussion?

10:23AM 13 A. Again, it was a really long time ago. But from what I

10:23AM 14 recall, I believe he called me initially to tell me what he

10:23AM 15 learned.

10:23AM 16 Q. Where were you when you got that phone call?

10:23AM 17 A. I believe I was at the U.S. Attorney's office.

10:23AM 18 Q. On the Gambino case, or another case?

10:23AM 19 A. I don't recall.

10:23AM 20 Q. So you're at the U.S. Attorney's Office, and you receive

10:23AM 21 a phone call from Special Agent Webb; is that correct?

10:23AM 22 A. I believe so.

10:23AM 23 Q. And did Special Agent Webb appear excited or interested

10:23AM 24 in the information that he had learned?

10:23AM 25 A. Yes.

10:23AM 1 Q. Did you agree to meet with him and discuss it?

10:23AM 2 A. Yes.

10:23AM 3 Q. Now, as you sit here today in 2024, do you remember if
10:24AM 4 that meeting occurred the same day or shortly thereafter?

10:24AM 5 A. I don't recall. It was -- if it wasn't that same day,
10:24AM 6 then was shortly thereafter.

10:24AM 7 Q. Do you recall ultimately having a meeting with Special
10:24AM 8 Agent Webb to discuss the organizational chart?

10:24AM 9 A. Yes.

10:24AM 10 Q. Where did that meeting occur?

10:24AM 11 A. In my office, in my bay.

10:24AM 12 Q. Is that at the Electric Tower?

10:24AM 13 A. Yes.

10:24AM 14 Q. And your "bay," as you described earlier, are those kind
10:24AM 15 of low cubicles in the open area; is that correct?

10:24AM 16 A. Yes.

10:24AM 17 Q. Are there other DEA agents milling around when you're
10:24AM 18 having conversations like that?

10:24AM 19 A. Yes.

10:24AM 20 Q. Are there other task force officers milling around when
10:24AM 21 you're having conversations?

10:24AM 22 A. Yes.

10:24AM 23 Q. Did Special Agent Webb bring that organizational chart to
10:24AM 24 the meeting with you?

10:24AM 25 A. Yes.

10:24AM 1 Q. Did you discuss what was contained on it?

10:24AM 2 A. Yes.

10:24AM 3 Q. Does DEA sometimes assign cold case agents to cases?

10:25AM 4 A. Yes.

10:25AM 5 Q. Did you have a cold case agent from the DEA on the
10:25AM 6 Gambino investigation?

10:25AM 7 A. I did, yes.

10:25AM 8 Q. Who was it?

10:25AM 9 A. My partner, Christian Ulmer.

10:25AM 10 Q. Was the defendant the co-case agent on the Gambino
10:25AM 11 investigation?

10:25AM 12 A. I'm sorry?

10:25AM 13 Q. Was the defendant, Joe Bongiovanni, a co-case agent on
10:25AM 14 the Gambino investigation?

10:25AM 15 A. Oh, I'm sorry. No, he wasn't.

10:25AM 16 Q. At some point after Special Agent Webb brought this
10:25AM 17 organizational chart to the DEA, and you had a discussion
10:25AM 18 with him about it in the bay, did defendant Joseph
10:25AM 19 Bongiovanni approach you to discuss a name that was on that
10:25AM 20 organizational chart?

10:25AM 21 A. Yes.

10:25AM 22 Q. Who was the person he came up to you to discuss?

10:26AM 23 A. Peter Gerace.

10:26AM 24 Q. Was his name on the organizational chart?

10:26AM 25 A. Yes.

10:26AM 1 Q. I'm holding what's marked as Government Exhibit 30B.

10:26AM 2 **MR. COOPER:** May I approach the witness?

10:26AM 3 **THE COURT:** You may.

10:26AM 4 **BY MR. COOPER:**

10:26AM 5 Q. Take a moment and look through that three-page document,
10:26AM 6 sir, and when you're finished look up.

10:26AM 7 Do you recognize that?

10:26AM 8 A. I do. From my trial prep.

10:26AM 9 Q. Is that a DEA-6 report?

10:26AM 10 A. Yes.

10:26AM 11 Q. Is there a case number on it?

10:26AM 12 A. Yes.

10:26AM 13 Q. Do you recognize the case number?

10:26AM 14 A. Yes.

10:26AM 15 Q. Okay.

10:26AM 16 A. I do.

10:26AM 17 Q. On the third page, or it's the second piece of paper,
10:27AM 18 it's double sided, is there an organizational chart?

10:27AM 19 A. Yes.

10:27AM 20 Q. Do you recognize that?

10:27AM 21 A. Yes.

10:27AM 22 Q. Starting with that organizational chart, is that a fair
10:27AM 23 and accurate depiction of the organizational chart that
10:27AM 24 Special Agent Webb brought to you and discussed with you at
10:27AM 25 the DEA?

1 A. Yes.

2 Q. And that DEA-6, is that a fair and accurate depiction of
3 a DEA-6 report that was entered into your file on the, as
4 you've called it, the David Gambino investigation?

5 A. Yes.

6 **MR. COOPER:** Judge, I'd offer Exhibit 30B into
7 evidence.

8 **MR. MacKAY:** No objection.

9 **THE COURT:** Received without objection.

10 **(GOV Exhibit 30B was received in evidence.)**

11 **BY MR. COOPER:**

12 Q. May I have that back, sir?

13 A. Sure.

14 **MR. COOPER:** If we can publish to the jury just the
15 third page of Exhibit 30B right now.

16 **BY MR. COOPER:**

17 Q. Sir, can you see that up on your screen?

18 A. Yes.

19 Q. Can you circle the name that the defendant came up to
20 speak with you about?

21 If you touch the screen, it should draw on it, hopefully.

22 A. This one.

23 **MR. COOPER:** Just for the record, Judge, there's a
24 green circle surrounding the box with Peter "Gerasi" Jr.
25 towards the top of the center of the exhibit?

10:28AM 1 **THE COURT:** That's accurate.

10:28AM 2 **BY MR. COOPER:**

10:28AM 3 Q. Special Agent Webb, the location of that name on this
10:28AM 4 organizational chart, would you term that as towards the top
10:28AM 5 of the chart?

10:28AM 6 A. Yeah, top middle, upper middle.

10:28AM 7 Q. And you just got my next question, but it's in the
10:28AM 8 center, right?

10:28AM 9 A. Yes.

10:28AM 10 Q. You described for us before that these organizational
10:28AM 11 charts are often box and line diagrams, right?

10:28AM 12 A. Yes.

10:28AM 13 Q. Is that what this chart is?

10:28AM 14 A. Yes.

10:28AM 15 Q. Are there a bunch of different lines coming off the name
10:29AM 16 Peter "Gerasi" Jr.

10:29AM 17 A. Yes.

10:29AM 18 Q. Those go to a variety of different names and individuals;
10:29AM 19 is that right?

10:29AM 20 A. Yes.

10:29AM 21 Q. When you got this chart from Special Agent TJ Webb did
10:29AM 22 you bring it over to the defendant and hand it to him?

10:29AM 23 A. No.

10:29AM 24 Q. Did you try to start a discussion with him about it?

10:29AM 25 A. I don't recall.

1 Q. Who started the discussion about the name Peter Gerace?

2 A. I believe it was Special Agent Webb when we initially
3 were reviewing the chart.

4 Q. And was the defendant a part of that initial conversation
5 with Special Agent Webb?

6 A. I don't believe so, no.

7 Q. So at some point later, the defendant comes up to talk to
8 you about this name Peter "Gerasi" on the chart?

9 A. Yes.

10 **MR. COOPER:** Ms. Champoux, can we go to page 1 of
11 this exhibit? If we can zoom out so we get the whole thing?
12 Thank you.

13 Can we zoom in on the top portion through box 10?
14 Thank you.

15 **BY MR. COOPER:**

16 Q. Can you see that, Special Agent Wisniewski?

17 A. Yes.

18 Q. At the box number 3, there's a file number; is that
19 correct?

20 A. Yes.

21 Q. C2-06-0120?

22 A. Yes.

23 Q. Was that the file number for your David Gambino
24 investigation?

25 A. Yes.

10:30AM 1 Q. Now in the box where it says file title, that says

10:30AM 2 Matthew Scalia; is that correct?

10:30AM 3 A. Correct.

10:30AM 4 Q. Can you just explain to the jury why it doesn't say David

10:30AM 5 Gambino?

10:30AM 6 A. Because when we initiate -- when DEA initiates cases,

10:30AM 7 usually you will name the first person that you think most

10:30AM 8 likely you'll be able to arrest. In this instance, where we

10:30AM 9 started the case it was a person by the name Matthew Scalia.

10:30AM 10 We purchased cocaine from him, and eventually arrested him.

10:31AM 11 And that took us to other parts of the case.

10:31AM 12 Q. Based upon your investigation, did you use this file

10:31AM 13 title, Matthew Scalia, to continue to investigate the Gambino

10:31AM 14 organization?

10:31AM 15 A. Yes.

10:31AM 16 Q. Were there links between Scalia and Gambino?

10:31AM 17 A. I believe so, yes.

10:31AM 18 Q. Would it have been appropriate to build the Gambino

10:31AM 19 investigation into a file that had nothing to do with

10:31AM 20 Gambino?

10:31AM 21 A. I'm sorry, say that again?

10:31AM 22 Q. Would it have been appropriate to build the Gambino

10:31AM 23 investigation out in a file that had nothing to do with

10:31AM 24 Gambino?

10:31AM 25 A. Generally not, no.

10:31AM 1 Q. So if it's under the Scalia file title, based on your
10:31AM 2 training and experience, you'd expect there to be a link
10:31AM 3 between those two?

10:31AM 4 A. Yes.

10:31AM 5 Q. Okay. What's the date that this report was prepared?

10:31AM 6 A. It says -- it says December 2nd, 2008.

10:31AM 7 Q. And who's the author of this report?

10:31AM 8 A. Special Agent Joseph Bongiovanni.

10:31AM 9 Q. Are there other officers listed?

10:31AM 10 A. Yes.

10:31AM 11 Q. Who are they?

10:31AM 12 A. Myself, and police -- Buffalo Police Captain Mark

10:32AM 13 Marchiello.

10:32AM 14 Q. You see the initials AGS in front of your name?

10:32AM 15 A. Yes.

10:32AM 16 Q. What does that mean, can you tell them?

10:32AM 17 A. At the time of this report's writing, I was the acting

10:32AM 18 group supervisor. So that basically means our supervisor

10:32AM 19 moved up a rank to run the office at the time, and I was

10:32AM 20 temporarily running the team.

10:32AM 21 Q. In box 10, is that kind of a summary of what this report
10:32AM 22 is supposed to be about?

10:32AM 23 A. Yes.

10:32AM 24 Q. Can you read for the jury what it says in box 10?

10:32AM 25 A. Acquisition of flowchart associated to the David Gambino

1 organization.

2 Q. You didn't write this DEA-6, did you?

3 A. No.

4 Q. Did you direct that this DEA-6 be written?

5 A. I don't recall the production of this DEA-6. Again, it
6 was written a long time ago.

7 **MR. COOPER:** Ms. Champoux, you can zoom out of that.
8 And we can take the exhibit down for just a minute. Thank
9 you, ma'am.

10 **BY MR. COOPER:**

11 Q. Would it be fair to say that an organizational chart like
12 the one we just looked at, the purpose of it is to map out
13 relationships between suspected criminal actors?

14 A. Yes.

15 Q. Okay. Now at the time you got that chart, do you know
16 whether the information on it was accurate?

17 A. I suspected that it might be. That chart was not
18 prepared by law enforcement, it was prepared by -- it was
19 obtained by a confidential informant from the Buffalo Police
20 Department, so we didn't really know what was on that chart.
21 And then we -- a lot of the discussion was trying to figure
22 out what it actually meant and who was who and what was what.

23 Q. Would it be fair to say it would require some follow-up
24 investigation to find out if the information contained on
25 here was accurate?

10:33AM

1 A. Yes.

10:33AM

2 Q. What the -- would it be also fair to say, though, that

10:34AM

3 what the chart purports to be is relationships between

10:34AM

4 criminal actors?

10:34AM

5 A. Yes.

10:34AM

6 Q. Now, a few minutes ago you told the jury that the

10:34AM

7 defendant came up and approached you about the name Peter

10:34AM

8 Gerace being on your chart; do you remember that?

10:34AM

9 A. Yes.

10:34AM

10 Q. What did the defendant say to you when he approached you

10:34AM

11 about Peter Gerace being on this chart?

10:34AM

12 A. He said that he knew him from the old neighborhood. And

10:34AM

13 that he could talk to him and try to do what's called a cold

10:34AM

14 approach to see if he would cooperate with us.

10:34AM

15 Q. You used the term "cold approach." Can you just define

10:34AM

16 that for the jury?

10:34AM

17 A. A cold approach is a technique where we just approach

10:34AM

18 someone that we think can help us, and either bluff them that

10:35AM

19 they have charges pending or could have charges pending, or

10:35AM

20 because they're a good citizen they help us out.

10:35AM

21 Q. Is that a technique of first resort for you as --

10:35AM

22 A. Not generally, because it's a little on the riskier side.

10:35AM

23 Q. When you say it's "a little on the riskier side," can you

10:35AM

24 explain to the jury what the risks are on a cold approach?

10:35AM

25 A. If you're approaching a potential person under

10:35AM 1 investigation, then you've tipped your hand that he's under
10:35AM 2 investigation. And during the discussion, he may or may not
10:35AM 3 learn of the scope of your investigation and, like, some of
10:35AM 4 the goings on if you're not careful in the -- how you
10:35AM 5 approach the situation.

10:35AM 6 Q. Now, would it be fair to say a cold approach could result
10:35AM 7 in gaining a valuable cooperator?

10:35AM 8 A. If it works, it's very valuable. It speeds up the
10:35AM 9 investigative process immensely.

10:35AM 10 Q. And if it doesn't work, there are risks such as derailing
10:36AM 11 the investigation into that target, right?

10:36AM 12 A. Yes.

10:36AM 13 Q. Did you agree to allow the defendant to pursue that
10:36AM 14 investigative approach with Gerace?

10:36AM 15 A. Yes.

10:36AM 16 Q. At that time, when you had this conversation, was Gerace
10:36AM 17 the main target of your investigation?

10:36AM 18 A. No.

10:36AM 19 Q. Was he a key focus for you?

10:36AM 20 A. No.

10:36AM 21 Q. If he had been the main target, the head honcho in your
10:36AM 22 investigation, would you have approved a cold approach out
10:36AM 23 of nowhere?

10:36AM 24 A. It would have been a much lengthier, I think, discussion
10:36AM 25 with the partner agencies and leadership, management, about

10:36AM 1 whether or not that would be appropriate.

10:36AM 2 Q. But in these circumstances, you agreed to allow the

10:36AM 3 defendant to try that; is that correct?

10:36AM 4 A. Yes.

10:36AM 5 Q. During that discussion about the defendant volunteering

10:36AM 6 to cold approach Peter Gerace, did he tell you that they were

10:36AM 7 personal friends?

10:36AM 8 A. He didn't -- I don't really recall, he said he knew him

10:37AM 9 from the old neighborhood.

10:37AM 10 Q. Okay. Did he tell you that they went on double dates

10:37AM 11 together?

10:37AM 12 A. No, I don't think so.

10:37AM 13 Q. If he had told you that, would that have stuck out in

10:37AM 14 your mind?

10:37AM 15 A. Yes.

10:37AM 16 Q. Okay. Does it stick out in your mind?

10:37AM 17 A. No.

10:37AM 18 Q. Did he tell you that him and Peter Gerace went on

10:37AM 19 vacations together?

10:37AM 20 A. No.

10:37AM 21 Q. Did he tell you that he and Peter Gerace exchanged social

10:37AM 22 phone calls together?

10:37AM 23 A. No.

10:37AM 24 Q. Did he tell you that he and Peter Gerace text messaged

10:37AM 25 each other?

10:37AM

1 A. No.

10:37AM

2 Q. If he had shared that information with you, would you

10:37AM

3 have said, yeah, go out, do the cold approach, see how it

10:37AM

4 goes?

10:37AM

5 A. I don't know. But it definitely would have affected the

10:37AM

6 decision-making process, it would have been a much lengthier

10:37AM

7 discussion.

10:37AM

8 Q. Would you have brought this to a supervisor?

10:37AM

9 A. Most likely, yes.

10:37AM

10 Q. How many years have you been a DEA special agent?

10:37AM

11 A. Now? Over 25, going on 26 years.

10:38AM

12 Q. Would you handle a close personal friend as a

10:38AM

13 confidential source?

10:38AM

14 A. I would not, no.

10:38AM

15 Q. Would you handle a close personal friend as a source of

10:38AM

16 information?

10:38AM

17 A. Probably not.

10:38AM

18 Q. Sometime after that conversation with the defendant, does

10:38AM

19 he come and report back to you about his cold approach of

10:38AM

20 Peter Gerace?

10:38AM

21 A. Yes.

10:38AM

22 Q. What does he tell you?

10:38AM

23 A. That it wasn't going to happen. Mr. Gerace didn't -- I

10:38AM

24 don't recall the exact conversation, again, it was a very

10:38AM

25 long time ago, but he either didn't know the right people or

10:38AM 1 he couldn't get the right quantities of drugs. And it turned
10:38AM 2 out that it was going to be marijuana. And I remember the
10:38AM 3 discussion was around 10 pounds, he could only get around 10
10:38AM 4 or less than 10. I don't recall specifically, but it
10:38AM 5 didn't -- it wasn't going to work out.

10:39AM 6 Q. When the defendant came back to talk to you, did he
10:39AM 7 encourage you to use Peter Gerace as a cooperator?

10:39AM 8 A. Did he encourage me?

10:39AM 9 Q. Did he encourage you.

10:39AM 10 A. I don't recall.

10:39AM 11 Q. Did the information that he provided you as you just
10:39AM 12 related to the jury, is that he told you this guy's not going
10:39AM 13 to help us, right?

10:39AM 14 A. Yes.

10:39AM 15 Q. That's not encouraging you to use him, is it?

10:39AM 16 A. No.

10:39AM 17 Q. Is there an inherent trust that exists between DEA
10:39AM 18 special agents?

10:39AM 19 A. Yes.

10:39AM 20 Q. Do you believe something that another special agent tells
10:39AM 21 you when you're at work?

10:39AM 22 A. Yes.

10:39AM 23 Q. Is that important?

10:39AM 24 A. Yes.

10:39AM 25 Q. Why is it important?

10:39AM 1 A. Because we handle a tremendous amount of information, and
10:39AM 2 you can't possibly check it all yourself, you have to rely on
10:39AM 3 the work of others and the word of others to sort of make the
10:39AM 4 cases move forward.

10:39AM 5 Q. When the defendant told you after his cold approach with
10:39AM 6 Peter Gerace that Gerace didn't have information that could
10:40AM 7 help you, did you believe him?

10:40AM 8 A. Yes.

10:40AM 9 Q. Did you go and vet it yourself and talk to Gerace
10:40AM 10 yourself?

10:40AM 11 A. I did not, no.

10:40AM 12 Q. When the defendant reported back to you that his cold
10:40AM 13 approach of Peter Gerace had essentially failed, does that
10:40AM 14 diminish your ability or inroads you could have to
10:40AM 15 investigate Peter Gerace?

10:40AM 16 A. It could.

10:40AM 17 Q. How so?

10:40AM 18 A. I mean, well, he now knows that, you know, we have
10:40AM 19 information that he may be involved in drug trafficking. So
10:40AM 20 he could potentially, like, stop trafficking for a while. He
10:40AM 21 can change, like, who he deals with. He can change his
10:40AM 22 method of operations.

10:40AM 23 Q. Is it a fairly basic concept in drug investigations that
10:40AM 24 you don't want the target of your investigation to know
10:41AM 25 they're under investigation?

1 A. Generally speaking, yes, sir.

2 Q. It makes your job easier, right?

3 A. Yes.

4 Q. And to the contrary, if they know they're under
5 investigation, would that make your job harder?

6 A. Yes.

7 **MR. COOPER:** Ms. Champoux, can we go back to
8 Government Exhibit 30B on page 1, please.

9 Can you zoom in on paragraphs 1 and 2.

10 **BY MR. COOPER:**

11 Q. This paragraph 1 sentence here, is that a standard
12 sentence that's used in DEA-6 reports?

13 A. Sentence 1, yes.

14 Q. Okay. Can you just tell them, I think this may be the
15 first time we're going through it, can you explain to the
16 jury what that standard sentence is and what it means?

17 A. So when we write that, we're linking this information to
18 the other information in the file. When we report, some
19 agencies write one long comprehensive report. When we do a
20 report, we do it by action. So this information is here
21 because it is connected to other information in the file.

22 Q. Can you read paragraph 2 for the jury?

23 A. On December 1, 2008, at approximately 7:30 p.m., Special
24 Agent Bongiovanni met with Buffalo Police Captain Mark
25 Marchiello at Buffalo Police headquarters in Buffalo,

1 New York. At that time, Captain Marchiello gave Special
2 Agent Bongiovanni an organizational chart listing drug
3 traffickers identified by target David Gambino. The
4 organizational chart was sketched by Gambino himself, and
5 given to a confidential source utilized by BPD Captain
6 Marchiello. The organizational chart describes significant
7 targets, both identified as drug traffickers and other
8 targets yet to be identified as those trafficking in cocaine
9 and marijuana in the Buffalo, New York area.

10 **MR. COOPER:** Can you zoom out, Ms. Champoux? And
11 zoom in on paragraph 3 and 4.

12 **BY MR. COOPER:**

13 Q. Can you continue reading at paragraph 3, slowly?

14 A. On December 2nd, 2008, Special Agent Bongiovanni turned
15 over the aforementioned chart to case agent -- Special Agent
16 Christopher Wisniewski in reference to case file C2-06-0120.

17 Special Agent Wisniewski stated he would contact BPD
18 Captain Marchiello to discuss the details of how the chart
19 was acquired.

20 Q. Is the information in paragraph 3 accurate?

21 A. I don't recall. It -- it -- it's inconsistent with my
22 recollection. I received the organizational chart from TJ
23 Webb.

24 Q. Does the report say Special Agent Wisniewski received the
25 organizational chart from TJ Webb?

1 A. No.

2 Q. Is it accurate?

3 A. Not in that aspect, no.

4 Q. It says Special Agent Wisniewski stated that he would

5 contact BPD Captain Marchiello to discuss the details of how

6 the chart was acquired. Did you state that?

7 A. I don't recall stating that. I don't recall that I ever

8 spoke with Captain Marchiello regarding the matter. I

9 believe it was all TJ Webb doing that.

10 **MR. COOPER:** You can zoom out, Ms. Champoux.

11 Can you zoom in on boxes 11, 12, 13, 14, and 15.

12 Thank you.

13 **BY MR. COOPER:**

14 Q. Is this the signature block of DEA-6?

15 A. Yes.

16 Q. Who's the author of the report?

17 A. Special Agent Bongiovanni.

18 Q. Does it list you as the approver?

19 A. Yes.

20 Q. Do you have any independent recollection of approving

21 that?

22 A. No.

23 **MR. COOPER:** You can zoom out of that, Ms. Champoux.

24 **BY MR. COOPER:**

25 Q. In this DEA-6, is there any mention of the name Peter

1 Gerace?

2 A. No.

3 Q. Is there any mention of a cold approach?

4 A. No.

5 **MR. COOPER:** Can you go to the next page,
6 Ms. Champoux?

7 **BY MR. COOPER:**

8 Q. Down here at the bottom, do you see -- it's really at the
9 top, do you see where it says indexing?

10 A. Yes.

11 Q. How many people are indexed?

12 A. One.

13 Q. Who?

14 A. David Gambino.

15 Q. Is Peter Gerace indexed?

16 A. No.

17 Q. Is there any reference in this DEA-6 to a cold approach
18 of Peter Gerace?

19 A. No.

20 Q. Is there any reference in this DEA-6 to the defendant,
21 Joseph Bongiovanni, going and talking to Peter Gerace about
22 the organizational chart?

23 A. No.

24 **MR. COOPER:** You can take that down, Ms. Champoux.
25 Judge, may I approach the witness?

1 in paragraph 2? Starting here. No, the second sentence.

2 Thank you.

3 **BY MR. COOPER:**

4 Q. We highlighted the second sentence in paragraph 2 of
5 Government Exhibit 30A. Do you see that?

6 A. Yes.

7 Q. Gerace has acted as a confidential source, and has been
8 able to provide information regarding individuals in this
9 case file and other narcotic investigation in the past.

10 Is that what it says?

11 A. Yes.

12 Q. Where it says this case file, is that reference to
13 C2-06-0120?

14 A. I would assume so.

15 Q. That's the file it's entered into, right?

16 A. Yes.

17 Q. Did the defendant ever tell you that Peter Gerace
18 provided information regarding individuals in C2-06-0120?

19 A. Outside of what we've already discussed, no.

20 Q. Well, what you discussed was he couldn't help you, right?

21 A. Correct.

22 Q. Is what's written in this DEA-6 consistent with what the
23 defendant told you about his meeting, his cold approach of
24 Peter Gerace?

25 A. No.

10:48AM

1 Q. It's not?

10:48AM

2 A. I'm sorry, it's not consistent.

10:48AM

3 **MR. COOPER:** Okay. You can zoom out, Ms. Champoux.

10:48AM

4 Thank you. Can you go to page 2 of this exhibit.

10:48AM

5 **BY MR. COOPER:**

10:49AM

6 Q. Do you see at the bottom where it says indexing section?

10:49AM

7 A. Yes.

10:49AM

8 Q. Is Peter Gerace indexed on that DEA-6?

10:49AM

9 A. Yes.

10:49AM

10 Q. Do you see where it says NADDIS number pending?

10:49AM

11 A. Yes.

10:49AM

12 Q. What does "NADDIS number pending" mean?

10:49AM

13 A. That means information regarding that subject was entered
14 into the system, and the system -- the information was to be
15 processed, and it would generate a NADDIS number for that
16 person.

10:49AM

17 Q. Now, just walk through this with me. At the time you're

10:49AM

18 creating a DEA-6, not this one in particular, but you're

10:49AM

19 creating a DEA-6, and you enter someone into NADDIS. Are you

10:49AM

20 checking to see if they already have a NADDIS number?

10:49AM

21 A. You should, yes.

10:49AM

22 Q. Okay. And if they already have a NADDIS number, do you

10:49AM

23 put that NADDIS number in?

10:49AM

24 A. Yes.

10:49AM

25 Q. How do you check to see if someone already has a NADDIS

10:49AM

1 number?

10:49AM

2 A. You access NADDIS and run their name.

10:49AM

3 Q. Is it hard?

10:50AM

4 A. No, it only takes a few minutes.

10:50AM

5 Q. As an experienced DEA special agent, do you know how to

10:50AM

6 check if someone has a NADDIS number?

10:50AM

7 A. Yes.

10:50AM

8 Q. Before you index someone, do you check to see if they

10:50AM

9 have a NADDIS number?

10:50AM

10 A. Do I? Yes, I do.

10:50AM

11 Q. Okay. In NADDIS, can that include information about a

10:50AM

12 person, like their phone number?

10:50AM

13 A. Yes.

10:50AM

14 Q. Can it include their address?

10:50AM

15 A. Yes.

10:50AM

16 Q. Is it something that helps the DEA to investigate people?

10:50AM

17 A. Yes.

10:50AM

18 **MR. COOPER:** Judge, may I approach the witness?

10:50AM

19 **THE COURT:** You may.

10:50AM

20 **BY MR. COOPER:**

10:50AM

21 Q. I'm holding what's in evidence subject to connection and

10:50AM

22 subject to authentication as Exhibit 437. Do you recognize

10:50AM

23 that document, sir?

10:50AM

24 A. Yes.

10:50AM

25 Q. Is that a NADDIS printout?

10:50AM

1 A. Yes.

10:50AM

2 Q. Who does it pertain to?

10:50AM

3 A. Peter Gerace.

10:50AM

4 Q. Towards the top of that document, is there an indication

10:51AM

5 as to when Peter Gerace was assigned a NADDIS number?

10:51AM

6 A. Yes.

10:51AM

7 Q. When is it?

10:51AM

8 A. It says date of record, January 16, 1992.

10:51AM

9 Q. Do NADDIS records expire after six months?

10:51AM

10 A. No.

10:51AM

11 Q. Do they last a long time?

10:51AM

12 A. Yes.

10:51AM

13 Q. Does that help you in investigations?

10:51AM

14 A. Yes.

10:51AM

15 Q. Is it important that you be able to look back and see if

10:51AM

16 someone had come up in 1992?

10:51AM

17 A. It's helpful, yes.

10:51AM

18 Q. Okay. So based on your 25-plus years of experience at

10:51AM

19 the DEA, if you ran Peter Gerace in NADDIS in 2008, would he

10:51AM

20 have shown up?

10:51AM

21 A. He should have.

10:51AM

22 Q. He's been in NADDIS since 1992, right?

10:51AM

23 A. Yes.

10:51AM

24 **MR. COOPER:** May I approach, Judge?

10:51AM

25 **THE COURT:** Yes.

10:51AM 1 **MR. COOPER:** Thank you.

10:51AM 2 **BY MR. COOPER:**

10:51AM 3 Q. When that report, Government Exhibit 30A, reports that
10:51AM 4 Peter Gerace's NADDIS was pending, that was not accurate
10:51AM 5 information, was it?

10:51AM 6 A. No.

10:51AM 7 Q. By volunteering to go do a cold approach on Peter Gerace,
10:52AM 8 the defendant necessarily informed him that he was under a
10:52AM 9 DEA investigation, right?

10:52AM 10 **MR. MacKAY:** Objection. Objection. Assumes facts
10:52AM 11 not in evidence.

10:52AM 12 **MR. COOPER:** Judge, those facts are in evidence.

10:52AM 13 **THE COURT:** Overruled. Overruled. You don't need --
10:52AM 14 overruled.

10:52AM 15 **THE WITNESS:** I'm sorry, can you --

10:52AM 16 **MR. COOPER:** Ann, can you read back that question,
10:52AM 17 please?

10:52AM 18 (The above-requested question was then read by the
10:52AM 19 reporter.)

10:52AM 20 **THE WITNESS:** I don't know. I wasn't part of that
10:52AM 21 conversation. I don't know what they discussed. I would
10:52AM 22 assume that the subject would put enough information together
10:52AM 23 to realize that, you know, his name came up. But, again, I
10:53AM 24 wouldn't know for sure.

10:53AM 25 **MR. COOPER:** Okay. I have no further questions,

1 Judge.

2 **THE COURT:** Mr. MacKay?

3
4 **CROSS-EXAMINATION BY MR. MacKAY:**

5 Q. Good morning, Agent Wisniewski. How are you?

6 A. Well, sir. How are you?

7 Q. I'm well, thanks for asking.

8 All right. Let's start with timeframe. Those events
9 occur in late 2008, correct?

10 A. Yes.

11 Q. 16 years ago, correct?

12 A. Yes.

13 Q. And I think it came up in your direct testimony, but a
14 lot of the stuff you don't have a direct recollection of,
15 correct?

16 A. It was a long time ago.

17 Q. And that's my question. You're not remembering specific
18 conversations, correct?

19 A. Yes.

20 Q. You're not remembering the words of the specific
21 conversations, correct?

22 A. Not the specific ones, no, sir.

23 Q. You might have some takeaway from the conversation, but
24 fair to say you're lacking a lot of -- you're lacking a
25 recall of a lot of the specifics, correct?

10:54AM

1 A. Yes.

10:54AM

2 Q. Okay. Let's talk about DEA files.

10:54AM

3 So Matt Scalia is the name of the C2 -- I'm sorry --

10:54AM

4 C2-06-0120 file, correct?

10:54AM

5 A. Yes.

10:54AM

6 Q. And I think you told us on direct, he's assigned a name

10:54AM

7 probably because he's the first target or subject being

10:54AM

8 looked at in that file, correct?

10:54AM

9 A. Yes.

10:54AM

10 Q. And that goes all the way back to around 2006, correct?

10:54AM

11 A. Yes.

10:54AM

12 Q. And at that point in time, you're what's called the case

10:54AM

13 agent on the file, correct?

10:54AM

14 A. One of them, yes.

10:54AM

15 Q. The other one being Christian Ulmer, your partner?

10:54AM

16 A. Yes.

10:54AM

17 Q. You open that file up, right?

10:54AM

18 A. Yes.

10:54AM

19 Q. And from there, you told us a little bit on direct, DEA

10:54AM

20 investigations can take different routes, right?

10:54AM

21 A. Yes.

10:54AM

22 Q. Start with one file that might branch off into

10:54AM

23 investigating somebody else, correct?

10:54AM

24 A. Yes.

10:54AM

25 Q. And in this specific case, Dave Gambino becomes one

10:55AM 1 avenue that the Matt Scalia file takes, correct?

10:55AM 2 A. Yes.

10:55AM 3 Q. Now, just kind of simplifying it, we've got the Matt

10:55AM 4 Scalia file, the whole file, correct?

10:55AM 5 A. Yes.

10:55AM 6 Q. Within there, you've got some information about Dave

10:55AM 7 Gambino, correct?

10:55AM 8 A. Yes.

10:55AM 9 Q. Now Dave Gambino is also connected to other law

10:55AM 10 enforcement agencies because he's the subject of an OCDETF

10:55AM 11 investigation, correct?

10:55AM 12 A. Yes.

10:55AM 13 Q. So when you're working on an investigation with Dave

10:55AM 14 Gambino, you're linking up with other agencies, correct?

10:55AM 15 A. Yes.

10:55AM 16 Q. And in that investigation, you had a lot of discussion

10:55AM 17 with a number of different agencies, correct?

10:55AM 18 A. Yes.

10:55AM 19 Q. And fair to say the Dave Gambino investigation took on a

10:55AM 20 life of its own?

10:55AM 21 A. It was -- it became large, yes.

10:55AM 22 Q. It was ultimately resulted in a prosecution where the

10:55AM 23 criminal complaint was filed by the DEA, correct?

10:55AM 24 A. I believe so.

10:55AM 25 Q. By Bobby Nunn?

1 A. At some point, I was taken off the case because I changed
2 groups and I don't -- I don't have all the specifications of
3 who was resolved.

4 Q. But within the David Gambino investigation, there was
5 also the individual David Reynolds?

6 A. I believe so.

7 Q. Somewhere in that investigation, he's connected, correct?

8 A. I believe so.

9 **MR. MacKAY:** So, Ms. Champoux, can we pull up
10 Government Exhibit 30B, please? For everybody.

11 **THE CLERK:** All set.

12 **MR. MacKAY:** Can we go to page 3, the chart page.

13 Okay.

14 **BY MR. MacKAY:**

15 Q. Okay. So in front of you, there's the chart that's
16 attached to Government Exhibit 30B, do you see that?

17 A. Yes.

18 Q. Okay. So it's your testimony that that chart, you
19 specifically received from TJ Webb?

20 A. Yes.

21 Q. And you look at the bottom, you see TJ Webb's number on
22 there, correct?

23 A. Yes.

24 Q. Right above that, I'm underlining it, do you see Mark
25 Marchiello, and you see a phone number, correct?

10:57AM 1 A. Yes.

10:57AM 2 Q. Your understanding is that somewhere along the process,
10:57AM 3 this information that's depicted in this chart comes through
10:57AM 4 Mark Marchiello from the Buffalo police?

10:57AM 5 A. That's my understanding, yes.

10:57AM 6 Q. Okay. Over on the lower right, I'm sorry, lower left
10:57AM 7 side, you've got a file title -- I'm sorry, a file number
10:57AM 8 matching Matt Scalia, correct?

10:57AM 9 A. Yes.

10:57AM 10 Q. Now, right below there, I'm going to underline it, I
10:57AM 11 realize it's going vertical, it says conj, C-O-N-J, period,
10:57AM 12 W slash ICE. Do you see that?

10:57AM 13 A. Yes.

10:57AM 14 Q. Is that -- I'm trying to spell that out, is that a fair
10:57AM 15 depiction of what you see there?

10:57AM 16 A. I believe it says original with ice.

10:57AM 17 Q. Oh, that's what I was wondering, is what does that stand
10:57AM 18 for. And your understanding is that's --

10:58AM 19 A. Original is with ICE.

10:58AM 20 Q. Okay.

10:58AM 21 A. So they maintained whatever Mark Marchiello had.

10:58AM 22 Q. Okay. Now, your testimony on direct is that TJ Webb
10:58AM 23 reaches out to you in a phone call when you're at the U.S.
10:58AM 24 Attorney's Office, right?

10:58AM 25 A. I believe so, yes.

10:58AM 1 Q. Okay. And at some point in time after that, you get some
10:58AM 2 sort of organizational chart that he turns over to you,
10:58AM 3 correct?

10:58AM 4 A. Yes.

10:58AM 5 Q. Okay. And that was all in the discussion of the Dave
10:58AM 6 Gambino case, correct?

10:58AM 7 A. Yes.

10:58AM 8 Q. You did not prepare a DEA-6 on the receipt of that chart
10:58AM 9 though, correct?

10:58AM 10 A. No.

10:58AM 11 Q. Okay. Nowhere in the Matt Scalia file was there any
10:58AM 12 DEA-6 regarding your acquisition of a chart, correct?

10:58AM 13 A. No.

10:58AM 14 Q. Now, you met with in conjunction with this investigation
10:58AM 15 against Mr. Bongiovanni, you met with the Department of
10:58AM 16 Justice Office of Inspector General, correct?

10:59AM 17 A. Yes.

10:59AM 18 Q. Okay. Fair to say that was around June of 2020, correct?

10:59AM 19 A. I believe so.

10:59AM 20 Q. Okay. And do you recall being shown this chart at that
10:59AM 21 time?

10:59AM 22 A. Yes.

10:59AM 23 Q. Okay. What you told them at that time is that doesn't
10:59AM 24 look like the same chart I got from TJ Webb, correct?

10:59AM 25 A. I don't remember what I told them, but I --

1 Q. Well, let me stop you there.

2 Would it help to refresh your recollection to look at the
3 report there?

4 A. Yes.

5 Q. Okay.

6 **MR. MacKAY:** Ms. Champoux, can we show for the
7 witness only Government Exhibit 3508B-1. Can we go to the
8 second page.

9 Just bear with us, we'll get it up for you.

10 **THE WITNESS:** Sure.

11 **MR. SINGER:** 3501B-1?

12 **MR. MacKAY:** Yeah.

13 **MR. SINGER:** I've got it.

14 **MR. MacKAY:** May I approach, Judge?

15 **THE COURT:** Sure.

16 **MR. MacKAY:** Stand by. We're having some technical
17 difficulties, Agent Wisniewski.

18 **THE COURT:** Why don't we take a break since we have
19 this technical difficulty, and we'll try to figure it out.

20 Please remember my instructions about not
21 communicating about the case with anyone, including each
22 other, not making up your mind. And we'll see you back here
23 in about 10 or 15 minutes. Thanks.

24 (Jury excused at 11:01 a.m.)

25 **THE COURT:** Okay. Anything for the record from the

1 government?

2 **MR. TRIPI:** No, Your Honor. Thank you very much.

3 **THE COURT:** From the defense?

4 **MR. MacKAY:** No, Your Honor.

5 **THE COURT:** See you folks in a few minutes.

6 **THE CLERK:** All rise.

7 (Off the record at 11:02 a.m.)

8 (Back on the record at 11:16 a.m.)

9 (Jury not present.)

10 **THE CLERK:** All rise.

11 **THE COURT:** Please be seated.

12 **THE CLERK:** We are back on the record for the
13 continuation in the jury trial in case number 19-cr-227,
14 United States of America versus Joseph Bongiovanni.

15 All counsel and parties are present.

16 **THE COURT:** Okay. Anything we need to do before we
17 bring the jury back?

18 **MR. TRIPI:** No, Your Honor.

19 **MR. MacKAY:** No, Your Honor.

20 **THE COURT:** Okay. I need to break at 12:30. I've
21 got a call that I need to make right at 12:30. So whoever is
22 up doing whatever they're doing when we get close to there,
23 just when there's a convenient time to break, let me know.

24 **MR. COOPER:** We're going to break for lunch at 12:30?

25 **THE COURT:** We're going to break for lunch at 12:30.

1 Exactly. Exactly.

2 Okay. Let's bring them in, please, Pat. Thank you.

3 (Jury seated at 11:18 a.m.)

4 **THE COURT:** The record will reflect that all our
5 jurors, again, are present.

6 I remind the witness that he's still under oath.

7 And you may continue, Mr. MacKay.

8 **MR. MacKAY:** Thank you, Your Honor.

9 **BY MR. MacKAY:**

10 Q. All right. So Agent Wisniewski, I want to back up a few
11 questions, because we took a break, I want to reorient you to
12 what we were talking about before I have you look at that.

13 So, 2020, as part of this investigation against
14 Mr. Bongiovanni, you go and you meet with the Office of
15 Inspector General for an interview, correct?

16 A. I'm sorry.

17 Q. You met in 2020 with the Office of Inspector General to
18 give an interview, correct?

19 A. Yes.

20 Q. Okay. At that point in time, you had a lawyer with you,
21 correct?

22 A. I believe I did, yes, on the telephone.

23 Q. Okay. And you were asked some questions about the case.
24 And I think you told us already you recall being shown this
25 chart that's in Government Exhibit 30B, correct?

11:19AM 1 A. Yes.

11:19AM 2 Q. But when you talked to OIG in 2020, you said that's not
11:19AM 3 the same chart, correct?

11:19AM 4 A. I -- I want to -- I don't recall exactly what I told
11:20AM 5 them.

11:20AM 6 Q. So -- so if you don't recall, what I'm going to say is
11:20AM 7 would it help to refresh your recollection --

11:20AM 8 A. Yes.

11:20AM 9 Q. -- to look at the MOI from that interview?

11:20AM 10 A. Yes.

11:20AM 11 Q. So you should have up on your screen there Government
11:20AM 12 Exhibit 3501B-1. I'm going to direct you to the second full
11:20AM 13 paragraph. Read that to yourself, and look up at me when
11:20AM 14 you're done.

11:20AM 15 Okay. So does that refresh your recollection as to what
11:20AM 16 you told OIG back in 2020?

11:20AM 17 A. It does.

11:20AM 18 Q. Okay. And that the chart you were looking at, at 30B, is
11:21AM 19 not the same one you were given by TJ Webb, correct?

11:21AM 20 A. I didn't really recognize the chart that they showed me,
11:21AM 21 so I was a little taken aback, and I was trying to process
11:21AM 22 like if it was the one I was looking at. And for some reason
11:21AM 23 I didn't recognize it.

11:21AM 24 **MR. MacKAY:** Ms. Champoux, can we put Government
11:21AM 25 Exhibit 30B back up on the screen for the witness and the

1 jury?

2 Can we go to the third page, the chart?

3 **BY MR. MacKAY:**

4 Q. Do you see your handwriting anywhere on the chart?

5 A. Yes.

6 Q. Where?

7 A. The lower left corner.

8 Q. What specifically?

9 A. The C2-06-0120 copy, original with ICE. Phone numbers
10 might be mine. It's hard to tell. I have very -- my
11 handwriting is just getting worse with age.

12 Q. Mine too, Agent.

13 But we can agree, your handwriting's on there somewhere?

14 A. Yes.

15 Q. So you had this chart in your possession at some point in
16 time, correct?

17 A. Yes.

18 Q. And I think I've already asked you, but just to clarify,
19 when you purportedly received the chart from Special Agent
20 Webb, you did not write a DEA-6 on that separately?

21 A. No.

22 Q. You had the opportunity to review the Matt Scalia file
23 prior to testifying today?

24 A. A few reports.

25 Q. Would you have any reason to disagree with me that the

1 chart in front of you is the only handwritten organization
2 chart in the entire Matt Scalia file?

3 A. I believe so.

4 Q. Okay. All right. So let's put this chart aside for a
5 moment.

6 **MR. MacKAY:** Ms. Champoux, you can take that down.
7 Thank you.

8 **BY MR. MacKAY:**

9 Q. So, you have a discussion with Joseph Bongiovanni because
10 the name Peter Gerace is raised, correct?

11 A. Yes.

12 Q. And we took the chart down, but it appears like Peter
13 Gerace's name is on that chart, just misspelled in some
14 fashion, correct?

15 A. That's what I assumed.

16 Q. Okay. And if you recall it says "Gerasi," but it's
17 spelled with an I instead of an E, correct?

18 A. Yes.

19 Q. So you have this conversation with Mr. Bongiovanni, and
20 what comes out of it in sum and substance is Mr. Bongiovanni
21 indicated he can make some -- what you called cold approach
22 of Peter Gerace, correct?

23 A. Yes.

24 Q. And at that point in time, you are the acting G.S.,
25 correct?

11:23AM

1 A. Yes.

11:23AM

2 Q. Acting G.S., so the jury understands again, you're

11:23AM

3 filling in as an acting supervisor, correct?

11:23AM

4 A. Yes.

11:23AM

5 Q. Who is the G.S. at the time?

11:23AM

6 A. I want to say it was Brian Conneely.

11:23AM

7 Q. And the RAC at the time?

11:23AM

8 A. I think it was vacant. I don't really recall. I think

11:23AM

9 it was vacant, and I think Brian Conneely was the Acting RAC.

11:23AM

10 Q. Do you recall whether Dale Kasprzyk held any supervisory

11:23AM

11 position at that point in time?

11:23AM

12 A. I don't recall. But --

11:23AM

13 Q. Bottom line, even as the Acting G.S., you're still

11:23AM

14 reporting to somebody in Buffalo?

11:23AM

15 A. Yes.

11:23AM

16 Q. Whoever that is, there still is somebody above you?

11:24AM

17 A. Yes.

11:24AM

18 Q. Okay. So you have this discussion with Mr. Bongiovanni

11:24AM

19 about a possible cold approach, yes?

11:24AM

20 A. Yes.

11:24AM

21 Q. Didn't take that up the chain to anybody else, correct?

11:24AM

22 A. No, I discussed it with leadership and my other partners.

11:24AM

23 Q. Who specifically?

11:24AM

24 A. Most likely Brian Conneely.

11:24AM

25 Q. And you got approved obviously?

11:24AM 1 A. Yeah. Everybody was in agreement that it was worth a
11:24AM 2 shot.

11:24AM 3 Q. I mean, it might be putting the cart before the horse,
11:24AM 4 but if you're allowing him to go do that, that presumes he
11:24AM 5 has the authority to go do that, correct?

11:24AM 6 A. Yes.

11:24AM 7 Q. So somewhere along the line you're telling us that
11:24AM 8 somebody in leadership gave approval for Mr. Bongiovanni to
11:24AM 9 go make a connection to Peter Gerace, correct?

11:24AM 10 A. Yes.

11:24AM 11 Q. And you understood that happened because Mr. Bongiovanni
11:24AM 12 comes back on the other end of it and tells you that he did
11:24AM 13 do this cold approach, correct?

11:24AM 14 A. Yes.

11:24AM 15 Q. And it's your understanding that not much came out of it
11:24AM 16 though, correct?

11:24AM 17 A. Correct.

11:24AM 18 Q. Some information about possibly 10 kilograms or pounds of
11:25AM 19 marijuana?

11:25AM 20 A. Yes.

11:25AM 21 Q. Okay.

11:25AM 22 A. Something -- something to that effect.

11:25AM 23 Q. So there was -- you were in possession of some
11:25AM 24 information that Peter Gerace was involved in narcotics,
11:25AM 25 correct?

11:25AM 1 A. Yes.

11:25AM 2 Q. And from the chart that you're shown, Peter Gerace has
11:25AM 3 some connection at least in this org chart to Dave Reynolds,
11:25AM 4 correct?

11:25AM 5 A. Yes, sir.

11:25AM 6 Q. And from your recollection to the OCDETF investigation
11:25AM 7 into Dave Gambino, there's some connection between Dave
11:25AM 8 Gambino and Dave Reynolds, correct?

11:25AM 9 A. I believe so, yes.

11:25AM 10 Q. So, you would agree with me that it's a fair statement
11:25AM 11 that around 2008, the end of the year, DEA comes into
11:25AM 12 possession of some information from Peter Gerace, somehow
11:25AM 13 connected to Dave Reynolds and Dave Gambino, correct?

11:25AM 14 A. Yes.

11:25AM 15 Q. Now, as you told the jury though, you don't -- you don't
11:25AM 16 know what Mr. Bongiovanni said when he linked up with
11:26AM 17 Mr. Gerace, correct?

11:26AM 18 A. No.

11:26AM 19 Q. But let's put this date in perspective. Do you recall
11:26AM 20 that Dave Reynolds is arrested by HSI in November of 2008?

11:26AM 21 A. I don't recall that, no.

11:26AM 22 Q. I think I might have touched on it already, but do you
11:26AM 23 recall that Dave Gambino is arrested by DEA sometime later in
11:26AM 24 late 2009?

11:26AM 25 A. Again, I don't -- I -- I don't really recall any of that.

11:26AM 1 I think I was already off the case by that point.

11:26AM 2 Q. Okay. But in late 2008, you're still on the case in some
11:26AM 3 fashion, correct?

11:26AM 4 A. Yes.

11:26AM 5 Q. You're helping to fashion the case, the Dave Gambino
11:26AM 6 investigation, into a full prosecutable case, correct?

11:26AM 7 A. Yes.

11:26AM 8 Q. At that time, you came in receipt of some information
11:26AM 9 that Peter Gerace is involved in narcotics trafficking,
11:26AM 10 correct?

11:26AM 11 A. Yes.

11:26AM 12 Q. Okay. Again, you didn't write a report on that, correct?

11:26AM 13 A. No.

11:26AM 14 Q. Do you recall taking that information up the chain to
11:26AM 15 leadership to report back on what the cold approach was?

11:27AM 16 A. I don't recall, but they would have asked and I would
11:27AM 17 have told them that nothing came of it.

11:27AM 18 Q. So it was procedure that on the back end of this cold
11:27AM 19 approach, you still had to go back up to leadership and tell
11:27AM 20 them what happened?

11:27AM 21 A. Yes.

11:27AM 22 Q. Okay. And I guess what I'm getting towards is late 2008,
11:27AM 23 you've got information that Peter Gerace is involved in
11:27AM 24 narcotics trafficking, correct?

11:27AM 25 A. Yes.

1 Q. And did you have any information at that point in time
2 whether Peter Gerace is on supervised release?

3 A. I don't recall that, knowing that, no.

4 Q. But after you have this discussion with Mr. Bongiovanni
5 about the cold approach not working out, you don't take any
6 further investigative steps to investigate Peter Gerace,
7 correct?

8 A. I don't recall that I did, no.

9 Q. Okay.

10 **MR. MacKAY:** Judge, could I just have one moment,
11 please?

12 **THE COURT:** Yep.

13 **MR. MacKAY:** I have no further questions, Your Honor.

14 **MR. COOPER:** Just one second, please, Judge.

15 **THE COURT:** Sure.

16

17 **REDIRECT EXAMINATION BY MR. COOPER:**

18 Q. Special Agent Wisniewski, on cross-examination a moment
19 ago, you were asked some questions by Mr. MacKay about your
20 status as the acting group supervisor at or around the time
21 that the defendant recommended doing a cold approach of Peter
22 Gerace, right?

23 A. Yes.

24 Q. And Mr. MacKay said, oh, you approved that, right?

25 A. Yes.

11:29AM 1 Q. In 2008, when this is happening, about how long had you
11:29AM 2 worked with the defendant for, approximately?

11:29AM 3 A. Again, we met each other at the academy, 1998, 1999. And
11:30AM 4 we were on the same team multiple times. I would say I've
11:30AM 5 known him pretty much my entire career.

11:30AM 6 Q. At that time, you've known him about a decade; is that
11:30AM 7 correct?

11:30AM 8 A. Yes.

11:30AM 9 Q. Do you occasionally socialize with other agents?

11:30AM 10 A. Yes.

11:30AM 11 Q. Do you have a friendly atmosphere in the office?

11:30AM 12 A. Yes.

11:30AM 13 Q. Did you trust him at that time?

11:30AM 14 A. I did.

11:30AM 15 Q. When the defendant recommended doing a cold approach and
11:30AM 16 when you approved it, did he tell you that he was friends
11:30AM 17 with the person?

11:30AM 18 A. He said that he knew him from the old neighborhood is
11:30AM 19 what I recall.

11:30AM 20 Q. Did he tell you they were close personal friends?

11:30AM 21 A. I don't recall having an extended conversation about the
11:30AM 22 nature of their relationship.

11:30AM 23 Q. Did he tell you they went to dinner together?

11:30AM 24 A. No.

11:30AM 25 Q. Did he tell you that they went on dates together?

11:30AM

1 A. No.

11:30AM

2 Q. Did he tell you that they texted and talked on the phone?

11:30AM

3 A. No, not that I recall.

11:30AM

4 Q. Are there ethical standards for DEA special agents about

11:30AM

5 who you can and can't investigate when you have a

11:30AM

6 relationship with a person?

11:30AM

7 A. Yes.

11:30AM

8 Q. Is it appropriate for a DEA special -- agent as an acting

11:31AM

9 group supervisor, would you approve a DEA special agent

11:31AM

10 investigating someone he's personal friends with?

11:31AM

11 A. I would definitely run that up the chain of command.

11:31AM

12 There is a policy in place where you're supposed to report

11:31AM

13 the connection, and then there's an internal process where

11:31AM

14 things like that get reviewed. And I would say most times

11:31AM

15 the agent that's close personal friends does not work that

11:31AM

16 case.

11:31AM

17 Q. There are some pretty obvious problems investigating your

11:31AM

18 close personal friends, right, sir?

11:31AM

19 A. Yes.

11:31AM

20 **MR. MacKAY:** Objection, leading.

11:31AM

21 **THE COURT:** Sustained.

11:31AM

22 **BY MR. COOPER:**

11:31AM

23 Q. Would you approve somebody --

11:31AM

24 **THE COURT:** Stop, stop, stop.

11:31AM

25 The jury will strike that last question and answer.

11:31AM 1 Go ahead, Mr. Cooper.

11:31AM 2 **BY MR. COOPER:**

11:31AM 3 Q. As an acting group supervisor, would you approve someone
11:31AM 4 to investigate their close personal friend?

11:31AM 5 A. Probably not.

11:32AM 6 Q. If you had known in 2008 when you approved the defendant
11:32AM 7 to do the cold approach that he was close personal friends
11:32AM 8 with Peter Gerace, would you have approved it?

11:32AM 9 A. Again, as I stated earlier, I would definitely -- it
11:32AM 10 would definitely affect the decision-making process. It
11:32AM 11 would be discussed above my level. And then I probably
11:32AM 12 wouldn't be the one making that decision.

11:32AM 13 Q. That's not what happened, though, right?

11:32AM 14 A. No.

11:32AM 15 Q. Do you know a person by the name of Dale Kasprzyk?

11:32AM 16 A. Yes.

11:32AM 17 Q. Would it be fair to say he became a group supervisor
11:32AM 18 sometime at or after 2009?

11:32AM 19 A. Again, I don't recall specifically, but that sounds like
11:32AM 20 it could be correct.

11:32AM 21 Q. Do you -- can you just tell the jury who specifically are
11:32AM 22 the people that you recall discussing the defendant doing a
11:32AM 23 cold approach with?

11:32AM 24 A. TJ Webb, Dave Turri from the IRS, partner agencies.

11:33AM 25 Brian Conneely. And I don't know if Dale Kasprzyk was a part

11:33AM 1 of those conversations, or not.

11:33AM 2 Q. You don't have any recollection of discussing it with

11:33AM 3 Dale Kasprzyk?

11:33AM 4 A. I don't.

11:33AM 5 Q. Okay. And you were asked some questions on

11:33AM 6 cross-examination at the beginning of the cross about the

11:33AM 7 passage of time that's occurred between when this incident

11:33AM 8 happened and your testimony here today, right?

11:33AM 9 A. Yes.

11:33AM 10 Q. And you were asked some questions about your ability to

11:33AM 11 recall details of conversations, right?

11:33AM 12 A. Yes, right.

11:33AM 13 Q. When you didn't remember something, when you were asked a

11:33AM 14 question, did you say you didn't remember?

11:33AM 15 A. I believe I did.

11:33AM 16 Q. Okay. Have you made anything up from the witness stand,

11:33AM 17 sir?

11:33AM 18 A. No.

11:33AM 19 Q. Did you want to come here and testify against your former

11:33AM 20 coworker?

11:33AM 21 A. No, I did not.

11:33AM 22 Q. When you told the jury that you remembered something, did

11:34AM 23 you remember it?

11:34AM 24 A. Yes.

11:34AM 25 Q. Did you tell them the details that you remembered?

11:34AM 1 A. Yes.

11:34AM 2 Q. Did you make any of that up?

11:34AM 3 A. No.

11:34AM 4 **MR. COOPER:** No further questions, Judge.

11:34AM 5

11:34AM 6 **RECROSS-EXAMINATION BY MR. MacKAY:**

11:34AM 7 Q. Just to finish up, Agent Wisniewski, discussing this cold
11:34AM 8 approach, that's a connection that the office would try to
11:34AM 9 make to Peter Gerace, correct?

11:34AM 10 A. Yes.

11:34AM 11 Q. Wouldn't necessarily change who was investigating the
11:34AM 12 case, correct?

11:34AM 13 A. No.

11:34AM 14 Q. I mean, let's say a cold approach was theoretically
11:34AM 15 successful, it doesn't mean that Mr. Bongiovanni is going to
11:34AM 16 take the case over, correct?

11:34AM 17 A. Correct.

11:34AM 18 Q. It was still in your hands or whoever was handling the
11:34AM 19 case, correct?

11:34AM 20 A. Correct.

11:34AM 21 Q. You testified earlier that you were the case agent for a
11:34AM 22 long time on the Matt Scalia file, correct?

11:34AM 23 A. Yes.

11:34AM 24 Q. Okay. Regarding, again, this discussion about starting
11:34AM 25 the cold approach, as you sit here today do you remember that

1 you did discuss this with leadership in some way, correct?

2 A. Yes.

3 Q. There were people you told who were above you, correct?

4 A. Yes.

5 Q. And as best you can fathom it, it obviously got approved,
6 because you told Mr. Bongiovanni he could go do it?

7 A. Yes.

8 Q. You said he also made links to outside agencies telling
9 them that this was gonna happen, correct?

10 A. Yes.

11 Q. And --

12 **MR. MacKAY:** Just checking my notes here.

13 That's all the questions I have. Thank you.

14 **THE COURT:** Anything more, Mr. Cooper?

15 **MR. COOPER:** No, thank you, Judge.

16 **THE COURT:** You can step down, sir.

17 **THE WITNESS:** Yes, Judge.

18 (Witness excused at 11:35 a.m.)

19 (Excerpt concluded at 11:35 a.m.)

20 * * * * *

21

22

23

24

25

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on August 7, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.

TRANSCRIPT INDEX**EXCERPT - EXAMINATION OF CHRISTOPHER WISNIEWSKI****AUGUST 7, 2024****W I T N E S S****P A G E****C H R I S T O P H E R W I S N I E W S K I**

2

DIRECT-EXAMINATION BY MR. COOPER:

2

CROSS-EXAMINATION BY MR. MacKAY:

40

REDIRECT EXAMINATION BY MR. COOPER:

56

RECROSS-EXAMINATION BY MR. MacKAY:

61

E X H I B I T**P A G E**

GOV Exhibit 30B

18